

Notice of Allowability

Application No.

10/616,047

Examiner

JOHN PAK

Applicant(s)

SMITH ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's replies of 5/18/05 and 6/3/05.
2. ☒ The allowed claim(s) is/are 1-3, 5-6, 8, 30, 24, 28-29 [renumbered as 1-10].
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 7/26/05.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


JOHN PAK
PRIMARY EXAMINER
GROUP 1630

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This Office action is in response to applicant's replies of 5/18/05 and 6/3/05.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Friedman on 7/26/05.

Rewrite claims 1, 5, 6, 8, 24, 29 and 30 as follows.

Claim 1 (Currently amended). An aqueous solution of H_2O_2 (hydrogen peroxide) that is dispensed for topical, non-dental use as a stable foam for the treatment of minor skin injuries comprising

- a) a 0.1 wt% to 15 wt% solution of H_2O_2 ;
- b) about 1 wt% of a surfactant;
- c) from about 0.05 wt% to 1 wt% of a stabilizer;
- d) at least one skin protectant; and
- e) at least one topical pain reliever

that is packaged in a container equipped with a pump foaming chamber that produces foam without the use of gas propellants and delivers H_2O_2 in foam form topically to a skin wound by finger-depression of a foam dispenser, wherein (i) said aqueous solution of H_2O_2 does not contain an anti-plaque agent, anti-cariogenic agent, zinc chloride,

sodium citrate, sodium lauryl sulfate, citric acid, ethanol, or fat-soluble vitamins, and (ii) said aqueous solution of H_2O_2 is formulated so that said foam form does not drip or run off the skin to which it is applied and the foam is suitable for application to a skin wound.

Claim 5 (Currently amended). The aqueous solution of claim 1 wherein the topical pain reliever is selected from the group consistin of benzocaine, butamben picrate, dibucaine hydrochloride, dimethisoquin hydrochloride, dyclonine hydrochloride, lidocaine, lidocaine hydrochloride, pramoxine hydrochloride, tetracaine, tetracaine hydrochloride, benzyl alcohol, camphor, camphorated metacresol, juniper, phenol, phenolate sodium, resorcinol, diphenhydramine hydrochloride, tripelenamine hydrochloride, hydrocortisone, hydrocortisone acetate, methyl salicylate, methyl nicotinate, capsaicin, capsaicin oleoresin and combinations thereof.

Claim 6 (Currently amended). The aqueous solution of claim 1 wherein the topical skin protectant is selected from the group consisting of aluminum hydroxide gel, calamine, kaolin, petrolatum, dimethicone, talc, lanolin and topical starch.

Claim 8 (Currently amended). The aqueous solution of claim 1 wherein the H_2O_2 container includes a reversibly compressible and decompressible container housing which operates at atmospheric pressure.

Claim 24 (Currently amended). A method for treating topical, non-dental wounds of the skin with a composition of hydrogen peroxide (H_2O_2), which comprises applying a foam composition comprising from 0.1 to 15 wt% hydrogen peroxide, stabilized with minor amounts of sodium pyrophosphate and formulated with a surfactant, at least one skin protectant, and at least one topical pain reliever to a topical, non-dental wound site by depressing a finger-activated pump foaming device in the immediate vicinity of of said wound, allowing the peroxide to come into contact with the wound without the need for additional application means and allowing the peroxide to treat the wound without dripping off the skin surface to which it was applied, wherein said foam composition does not contain an anti-plaque agent, anti-cariogenic agent, zinc chloride, sodium citrate, sodium lauryl sulfate, citric acid, ethanol, or fat-soluble vitamins.

Claim 29 (Currently amended). The method of claim 24 wherein the topical skin protectant is selected from the group consisting of aluminum hydroxide gel, calamine, kaolin, petrolatum, dimethicone, talc, lanolin and topical starch.

Claim 30 (Currently amended). The aqueous solution of claim 1 wherein the shelf life is about two years.

Amend claims 2 and 3 as follows.

Claim 2, line 1: delete "peroxide foam" and insert --- aqueous solution --- .

Claim 3, line 1: delete "peroxide foam" and insert --- aqueous solution --- .

It is noted for the record that support for amendment of claims 1 and 24 are found in the specification, for example, page 3, lines 3-21. The term "juniper" in claims 5 and 28 would be understood by the ordinary skilled artisan in this art as extracts or oil obtained from the juniper plant.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620**. The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

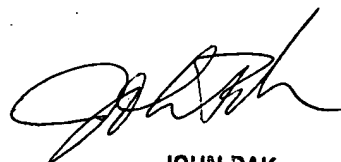
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Gary Kunz, can be reached on **(571)272-0887**.

The fax phone number for the organization where this application or proceeding is assigned is **(571)273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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